



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/025,717

12/19/2001

David J. Doddek

01-575

8006

58982

7590

02/02/2011

CATERPILLAR/FINNEGAN, HENDERSON, L.L.P.

901 New York Avenue, NW

WASHINGTON, DC 20001-4413

EXAMINER

BHAT, ADITYA S

ART UNIT

PAPER NUMBER

2857

MAIL DATE

DELIVERY MODE

02/02/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DAVID J. DODDEK and GILES K. SORRELLS

Appeal 2009-003860
Application 10/025,717
Technology Center 2800

Before JOHN C. MARTIN, MAHSHID D. SAADAT,
and ROBERT E. NAPPI, *Administrative Patent Judges*.

SAADAT, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304 or for filing a request for rehearing as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

Appellants appeal under 35 U.S.C. § 134(a) from a Final Rejection of claims 1-14 and 16-19, which constitute all the claims pending in this application. We have jurisdiction under 35 U.S.C. § 6(b).

We affirm-in-part.

STATEMENT OF THE CASE

Appellants' invention relates to a method and system for selectively processing operating data to provide data indicative of machine performance (*see* Spec. ¶ [01]). Claims 1 and 14, which are illustrative of the invention, read as follows:

1. A method for analyzing machine data, the machine data representing at least one condition of a machine, comprising the steps of:

storing said machine data in a data system;

defining a testing procedure by selecting from a plurality of pre-defined owner inputs each associated with one or more diagnostic processes, wherein at least one of the owner inputs is associated with one or more diagnostic processes that are different from the one or more diagnostic processes with which at least one of the other owner inputs is associated;

processing said machine data based on said testing procedure to determine a machine exception; and

generating a notification in the event of a machine exception;

wherein defining the testing procedure includes conditioning at least one diagnostic process to execute automatically based on the results of at least one other diagnostic process.

14. A method for analyzing machine data, the machine data representing at least one condition of a machine, comprising the steps of:

storing said machine data in a data system;

defining at least one testing procedure by selecting from a plurality of owner inputs, each associated with one or more diagnostic processes to be associated with said machine data, wherein at least one of the owner inputs is associated with one or more diagnostic processes that are different from the one or more diagnostic processes with which at least one of the other owner inputs is associated;

processing said machine data based upon said procedure;

determining a machine exception from said procedure;

and

generating a report in the event of a machine exception;

wherein said defining step includes the steps of:

selecting at least one test to be associated with said machine data;

defining at least one parameter associated with said at least one test;

defining at least two limits for the at least one parameter, wherein machine data that exceeds at least one of the limits is considered a machine exception; and

wherein said processing step includes running said at least one test in relation to said machine data.

The Examiner relies on the following prior art in rejecting the claims:

Rother	US 6,141,608	Oct. 31, 2000
Pillar	US 6,553,290 B1	Apr. 22, 2003
		(filed Feb. 9, 2000)

Claims 1-14 and 16-19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Pillar and Rother.²

Rather than repeat the arguments here, we make reference to the Briefs (Appeal Brief filed Nov. 13, 2007, and Reply Brief filed Aug. 8, 2008) and the Answer (mailed Jun. 11, 2008) for the respective positions of Appellants and the Examiner. Only those arguments actually made by Appellants have been considered in this decision. Arguments that Appellants did not make in the Briefs have not been considered and are deemed to be waived. *See* 37 C.F.R. § 41.37(c)(1)(vii).

ISSUES

With respect to claim 1, Appellants contend that Rother does not teach the claimed “defining the testing procedure includes conditioning at least one diagnostic process to execute automatically based on the results of at least one other diagnostic process” (App. Br. 13-16). Appellants further argue that Rother describes advantages of selectable diagnostic tests and therefore, teaches away from the proposed combination (App. Br. 16-18).

With respect to independent claim 8, Appellants rely on the same reasons discussed in support of the patentability of claim 1 (App. Br. 18).

With respect to claims 14 and 17, Appellants argue that the relied on portions of Pillar’s disclosure do not indicate multiple limits utilized for any of the parameters, nor a system configured to accept an owner input to select “at least two limits” for any parameter (App. Br. 19-20).

We, therefore, are presented with the following issues:

² The rejection of these claims is repeated on pages 3-9 of the Examiner’s Answer.

1. Under 35 U.S.C. § 103(a), with respect to appealed claims 1 and 8, does the combination of Pillar and Rother render the claimed invention unpatentable by teaching “defining the testing procedure includes conditioning at least one diagnostic process to execute automatically based on the results of at least one other diagnostic process,” as recited in claim 1?

2. Under 35 U.S.C. § 103(a), with respect to appealed claims 14 and 17, does the combination of Pillar and Rother render the claimed invention unpatentable by teaching a system configured to accept an owner input to select “at least two limits” for a defined parameter?

ANALYSIS

1. Claims 1 and 8

Appellants assert that the Examiner improperly relied on “manufacturer’s previous diagnosis experience” disclosed in Rother for teaching the claimed automatically executing at least one diagnostic process “based on the results of least one other diagnostic process” (App. Br. 13). The Examiner points out that the disputed claim feature may indeed include unrelated diagnostic processes and merely requires that one diagnostic process be finished before another process starts (Ans. 10). The Examiner further asserts that the claimed term “based on the results” does not require the first process results be necessarily incorporated into the next process, but only requires the initial diagnostics be completed before proceeding to the next diagnostic process (Ans. 10-11). To illustrate the breadth of the claim, the Examiner points to Appellants’ Specification, paragraph [0028], describing the second test as a “second unrelated” test (Ans. 11; 16-20).

In response, Appellants contend that the two tests, as disclosed in the Specification, are part of the same testing procedure which requires the claimed first diagnostic process and the second diagnostic process be part of the same testing procedure (Reply Br. 3-4). Appellants further argue that because the claim requires the execution of a second test be conditioned or dependent upon the results of a first process, the first process or the “other diagnostic process” must not have been performed yet (Reply Br. 5).

We understand the Examiner to mean that this “conditioning” is done by the user when the user selects another test after the user looks at the results of the first test. Giving claim 1 the broadest reasonable interpretation in light of the Specification without importing limitations, we find that even if the Examiner’s characterization of the claimed diagnostic processes as user-selected tests listed in the order of their effectiveness, as disclosed by Rother (*see* col. 3, ll. 26-33; col. 4, ll. 41-52), is reasonable, the Examiner has not shown that the conditioned testing procedure is executed automatically. In fact, as discussed by Appellants (App. Br. 17), the selectable diagnostic tests disclosed in Rother guide the user in selecting the next test in order to minimize performing needless tests. *See* col. 2, ll. 3-6. In other words, the second test must be selected by the user instead of being conditioned to execute automatically, as recited in claims 1 and 8.

Therefore, we do not sustain the rejection of claims 1 and 8, or of claims 2-7 and 9-13, dependent thereon, as obvious over Pillar and Rother.

2. *Claims 14 and 17*

The Examiner characterizes the Exemplary Measurement Range(s) shown in the chart spanning columns 8-10 of Pillar as the term “defining at least two limits for the at least one parameter,” recited in claims 14 and 17

(Ans. 11-12; 24-27). The Examiner finds that selecting a test from this chart also defines the range for the test by defining the upper and the lower limits that show improper functioning if the test results fall outside those limits (Ans. 26-27). Appellants contend that Pillar does not specify that exceeding the defined limits indicates improper functioning or is “a machine exception” (Reply Br. 9).

We do not agree with Appellants’ argument. Pillar’s chart includes a list of limits corresponding to diagnostic tests wherein selecting each test, in effect, defines at least two limits for the parameter tested. As shown in the flow chart of Figure 4, Pillar discloses that a measured parameter, such as the fuel supply pressure, is compared with the upper and the lower values listed in the chart in order to determine if the measured value is acceptable, too high, or too low (col. 11, ll. 45-52). We agree with the Examiner that such determination meets the claimed limits that, when exceeded, indicates a machine exception.

Therefore, we sustain the rejection of claims 14 and 17, as well as claims 16, 18, and 19, dependent thereon, which are not separately argued.

CONCLUSIONS

On the record before us, with respect to appealed claims 1-13, we conclude that the combination of Pillar and Rother does not teach “defining the testing procedure includes conditioning at least one diagnostic process to execute automatically based on the results of at least one other diagnostic process.” With respect to appealed claims 14 and 16-19, however, we conclude that the combination of Pillar and Rother renders the claimed

Appeal 2009-003860
Application 10/025,717

invention unpatentable by disclosing a system configured to accept an owner input to select “at least two limits” for a defined parameter.

ORDER

The decision of the Examiner rejecting claims 1-13 is reversed. The decision of the Examiner rejecting claims 14 and 16-19 is affirmed.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a)(1)(iv) (2010).

AFFIRMED-IN-PART

babc

CATERPILLAR/FINNEGAN, HENDERSON, L.L.P.
901 New York Avenue, NW
WASHINGTON, DC 20001-4413